THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.20495 of 2005

Date:19.09.2005

Aakash Jaiswal

--------PETITIONER

The Union of India and others

---------RESPONDENTS

ORDER:

The petitioner made a claim for being admitted into the 1-Year M.B.B.S. Course for the academic year 2005-06 against a seat reserved in favour of physically handicap category. The petitioner is said to have suffered handicap on the upper limbs to the extent of 40%. In the normal course, such handicap would enable him to be considered for admission in the seats reserved in favour of physically handicap category, in terms of the Persons With Disabilities (equal opportunities, protection of rights and full participation) Act, 1995 (for short 'the Act'). In fact, the respondents have reserved 3% of seats for physically handicapped candidates. The case of the petitioner was not considered, on the ground that his handicap is to the upper limbs, and the Rules, as they stand at present, do not permit the selection of candidates, except those who have handicap in the lower limbs. The petitioner challenges the action of the respondents in denying the seat to him.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the University.

Honoring the command under Act, the respondents provided for reservation of 3% of seats in favour of physically handicapped candidates. The question as to whether the requirement of the course vis-à-vis physical handicap of

candidates, needs to be taken into account, while stipulating the reservations; came to be dealt with by the Supreme Court as well as the other High Courts. In pursuance of the decision rendered by the Supreme Court, the Medical Council of India considered the matter and took a decision at its meeting held on 30.06.2003, to the effect that as against the three categories of physical handicaps viz., visual handicap, audio handicap and locomotor handicap, it has resolved to permit the admissions only to those candidates, who suffer locomotive disorders, that too to their lower limbs. Based on this resolution, the Government of India issued a notification, dated 12.05.2004. This, in turn, was incorporated by the Government of Andhra Pradesh, while issuing the statutory rules in G.O.Ms.Nos.183 and 184, dated 30.06.2004. Once it has emerged that the eligibility is only in respect of the handicap to the lower limbs and not to any other organ or part of the body, it is difficult to accept the contention of the petitioner.

The learned counsel for the petitioner submits that despite the handicap to the arm, the petitioner is in such a condition that he can pursue the course as efficiently as any other candidate, and that his rights cannot be defeated, on account of such amendment or notification.

Here it needs to be recognized that providing reservation to a particular category of students itself is an extra ordinary measure and an exception to the rule of equality. It enables a particular class of persons to steal a march over other candidates. Parameters for interpreting a provision, in the context of the principle of equality, cannot be extended in such cases. Hence, this Court does not find any basis to grant any relief to the petitioner.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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19.09.2005

Jsu